

# TEST EVERY KIT

RESULTS FROM THE MANHATTAN  
DISTRICT ATTORNEY'S OFFICE'S

## Sexual Assault Kit Backlog Elimination Grant Program

MARCH 2019

OFFICE OF MANHATTAN DISTRICT ATTORNEY  
CYRUS R. VANCE, JR.



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# A Letter from the DA



**Manhattan  
District Attorney  
Cyrus R. Vance, Jr.**

Historically, the law enforcement community in the United States has collectively struggled to bring justice to survivors of sexual assault. For a variety of reasons, including the challenging nature of such cases, deeply held biases, and a lack of resources, the field has not adequately addressed this devastating crime—a crime which predominantly affects women. The national backlog of sexual assault kits, or “rape kits,” tells the story of this failure. Each kit represents a person and a trauma, and all too often, an abdication of duty to act. Thanks to the work of many tireless advocates and visionary law enforcement leaders, including the pioneering prosecutors working under the leadership of my predecessor, Robert M. Morgenthau, we, as a country, are finally rewriting this story.

When New York City tested roughly 17,000 backlogged rape kits between 2000 and 2003, we discovered that clearing the backlog can have an immediate impact on public safety and bring long-awaited justice to survivors. We learned that testing **all** rape kits, regardless of the facts of the case, can help identify suspects, convict perpetrators, prevent future offenses, and even exonerate the innocent. Through these testing efforts, my office filed dozens of indictments based on DNA cold-case hits and helped solve crimes across the country by entering these DNA profiles into the FBI’s nationwide databank. This was the largest contribution toward ending the rape kit backlog that had ever been made.

Nearly two decades ago, my Office committed to clearing the backlog in

New York City, and in September 2015, we created a three-year, \$38 million-grant program to help end the backlog nationwide. The jurisdictions funded under the **Manhattan District Attorney’s Sexual Assault Kit Backlog Elimination Grant Program**

have seen tremendous results. Over the duration of the program, 32 jurisdictions across 20 states sent over 55,000 backlogged kits for testing and uploaded more than 18,800 DNA profiles into the FBI’s nationwide databank. These efforts will aid law enforcement for decades to come.

While jurisdictions across the country continue to test their rape kit backlogs, law enforcement and legislators must take necessary steps to prevent future backlogs from occurring. I applaud the numerous states that have recently enacted comprehensive legislative reform that mandate timely kit testing and have implemented stronger victim-centered approaches.

Though crime in New York City and across the country is at record lows, the number of sexual assaults reported to law enforcement is increasing due in part to brave survivors coming forward and the work being done by women and advocates involved in the #MeToo movement. Just as we encourage survivors of sexual assault to report their crimes to law enforcement, we must encourage law enforcement to prioritize the investigation and prosecution of these crimes, guarantee that all evidence is sent for testing, and support survivors.

Sincerely,

A handwritten signature in black ink, appearing to read "Cyrus R. Vance Jr."

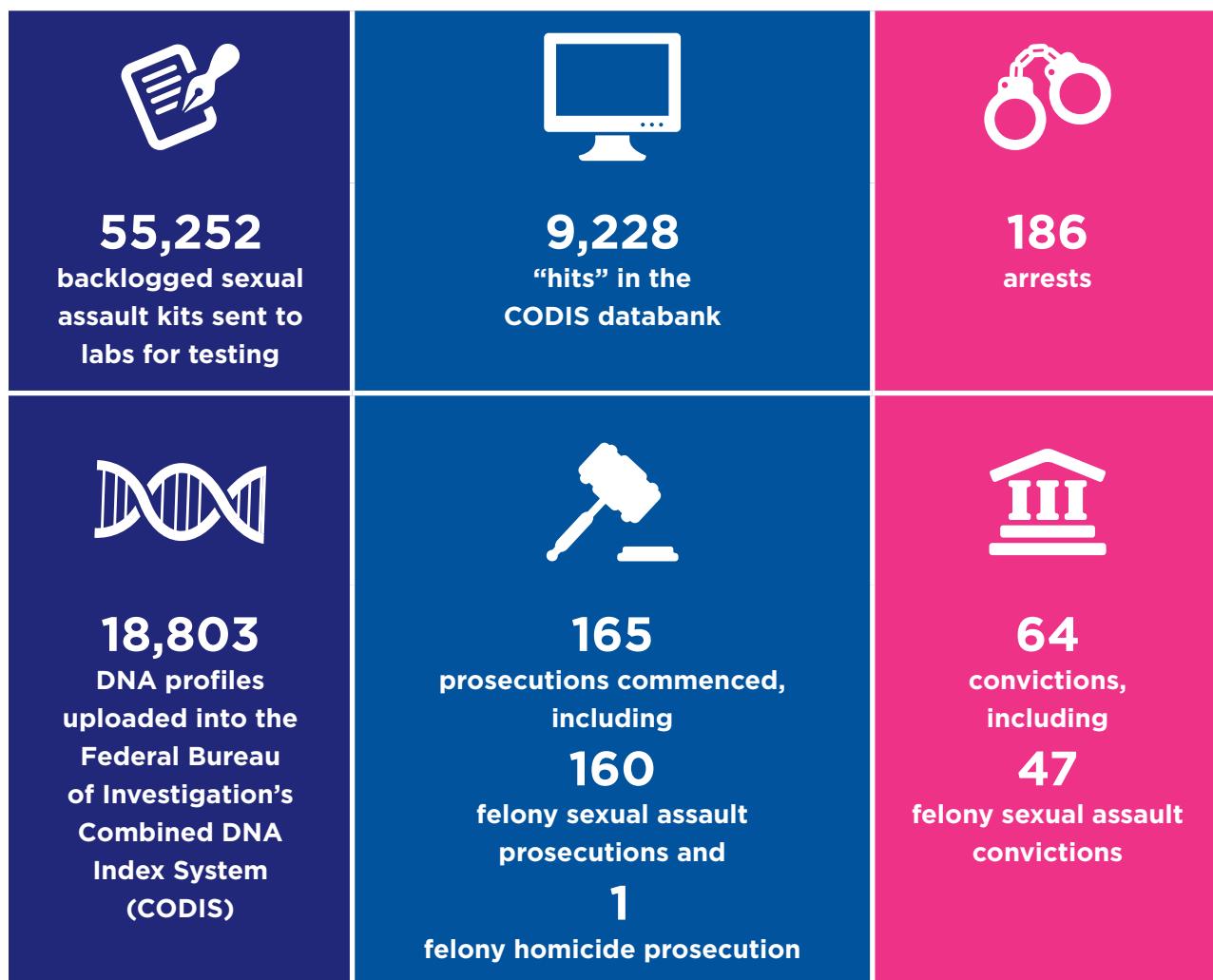
Cyrus R. Vance, Jr.  
Manhattan District Attorney

# Overview:

## The Manhattan District Attorney's Sexual Assault Kit Backlog Elimination Grant Program

Through the Sexual Assault Kit Backlog Elimination Grant Program, the Manhattan District Attorney's Office committed \$38 million to help eliminate backlogs of untested sexual assault evidence kits, or "rape kits," from across the country. Between September 2015 and September 2018, 32 jurisdictions in 20 states received funding from the Manhattan District Attorney's Office to test roughly 55,000 backlogged kits, generating DNA evidence that will help solve crimes for decades to come.

By testing their backlogged kits, these jurisdictions have bolstered a national DNA databank, identified suspects, convicted perpetrators, prevented future offenses, and brought long-awaited justice to survivors. Highlights to date include:



**Since 2015, at least seven states funded through this initiative have either eliminated or are close to eliminating their statewide backlogs, including Arkansas, Georgia, Kentucky, North Dakota, Ohio, Oregon, and Michigan.**

Numerous states have likewise enacted legislative reform to ensure that no future backlogs develop. These reforms include mandated testing of all new rape kits, the creation of statewide tracking and notification systems, and mandatory reporting on the number of kits collected and tested each year.

The following report details the successes and nationwide impact of the Office's Sexual Assault Kit Backlog Elimination Grant Program. It begins with a discussion of the nationwide backlog and details New York City's experience testing 17,000 shelved kits in the early 2000s. The report then describes the process by which the national grant program was developed and highlights key outcomes and successes to date. The report concludes with a list of recommendations to continue this vital work, including legislative reforms and the integration of victim-centered approaches into law enforcement practice.

# Background

## Sexual Assault Kits and the Significance of DNA Evidence

**F**ollowing a sexual assault, survivors may undergo a sexual assault forensic examination.

During these exams, specially trained nurses and medical professionals—often referred to as sexual assault nurse examiners (SANEs) or sexual assault forensic examiners (SAFEs)—provide immediate medical care and collect vital DNA evidence from the survivor's body. This process may include taking swabs of the mouth, vagina, and/or anus, collecting blood, hair, and urine samples, and photographing the body to document injuries. Depending on the circumstances of the assault, these forensic exams can take several hours to administer and can be re-traumatizing or triggering to the survivor.

**A survivor from Multnomah County, Oregon described her experience of receiving a sexual assault forensic examination in a recent Victim Impact Statement. Her kit, collected in 2010, was tested in 2016 through this initiative: “They ‘the nurses and drs’ took me in a room that may have looked like a closet in the ER. It was to my understanding no one would know I have even ‘checked in’ not even my family unless I let them know. I stripped down and left my clothes to the nurse. I started puking, I needed food, I don’t know what I needed and still try to push these memories out. My mom arrived. I remember sobbing as well as she. Puking. She brought me clothes given they ‘the hospital’ was taking my clothes for further investigation. My friend and the advocate left the hospital. I felt blank. Blackness.” The rapist was recently sentenced to more than eight years in prison for rape and sexual abuse.**

The samples collected during these examinations are stored in shoebox-sized containers that are commonly referred to as “rape kits” or “sexual assault kits.” Law enforcement agencies send these kits to a public or private lab where trained technicians extract a DNA profile from the forensic evidence. The DNA samples are then sent to an accredited public lab where technicians complete a second review of the sample, known as a technical review, and determine if the DNA profile is eligible for upload into the Federal Bureau of



Investigation (FBI)'s Combined DNA Index System (CODIS).<sup>1</sup>

CODIS, established in 1998, contains reference DNA samples from individuals who were arrested and/or convicted of a crime, depending on the state, as well as crime scene forensic evidence. Federal, state, and local labs can upload DNA profiles into the national databank. CODIS is a powerful tool in 1) identifying previously unknown assailants, 2) confirming the identity of known suspects in a crime, and 3) linking crime scenes through DNA evidence, even if the assailant's name remains unknown to law enforcement.

CODIS can enhance both ongoing and cold case investigations. When forensic evidence is uploaded into the databank, it can link or "hit" to otherwise distinct crime scenes located across the country. Law enforcement can then leverage information from other jurisdictions to enhance their current investigative efforts. This system is particularly helpful in identifying serial offenders. As of October 2018, CODIS has produced more than 440,346 hits nationwide that have assisted in more than 428,808 investigations nationwide.<sup>2</sup>

## Understanding the Rape Kit Backlog

### WHAT IS THE BACKLOG?

CODIS and the use of DNA evidence has revolutionized the ability of law enforcement to solve crimes. Unfortunately, not all forensic evidence is tested: as of January 2019, there is an estimated backlog of 155,500 untested sexual assault kits across the country.<sup>3</sup>

Because many jurisdictions, police departments, hospitals, and other local law enforcement agencies have not inventoried or publicly reported the number of untested kits in their possession, it is likely this figure vastly underrepresents the scope of the nationwide backlog. Many of these kits have remained untested for months, years, and sometimes decades.

### WHAT CAUSED THE BACKLOG?

The rape kit backlog developed over the last four decades. Some kits were collected in the 1970s, '80s, and '90s, before DNA testing was readily available. In some cases, law enforcement partially tested these kits with old technology that could identify the presence of semen, but could not create a comprehensive DNA profile. Many in law enforcement had the foresight to store these partially tested and untested kits in storage with the hope that they could be tested in the future with advances in DNA technology. Though crimes associated with these kits may be past the statute of limitations, technicians can now extract a complete profile and, when eligible, enter the profile into the national databank to identify previously unknown assailants and link forensic evidence across crimes.

Other jurisdictions developed a backlog due to a lack of resources. Because few local laboratories across the country have the capacity to test every sexual assault kit for DNA, law enforcement agencies often outsource their kits to a private lab for testing. On average, it costs between \$1,000 and \$1,500 to ship and test a single rape kit.<sup>4</sup> Local labs must then conduct a secondary, internal review of the DNA profile before they can upload the sample into CODIS. Many jurisdictions do not have the funding or capacity to keep up with this demand.

Much of the backlog developed because local law enforcement decided on a case-by-case basis which kits to test, and often chose not to test the rape kits in their possession. Historically, police departments and prosecutors' offices deprioritized the investigation and prosecution of sexual assault cases, often resulting from gender bias, victim blaming, a lack of resources and training, and little understanding of how trauma impacts a survivor's memory and behavior.<sup>5</sup>

In one study, researchers analyzed 1,268 police reports associated with untested sexual assault kits in Detroit, Michigan. Researchers discovered that law enforcement often utilized biased stereotypes to discredit survivors and close criminal cases. **These stereotypes include assumptions that 1) the survivor was engaged in prostitution and there had simply been a “deal gone bad”; 2) young women often make false claims of rape to justify “bad behavior”; and 3) survivors who knew their assailant prior to the assault lack legitimacy.**<sup>6</sup>

**Law enforcement often utilized gendered stereotypes to discredit survivors. As a detective from Detroit claimed, “The young girls, they say something went down so they won’t get in trouble with their mammas ‘cause they were out late or with older men or doing something they shouldn’t be doing.”<sup>7</sup>**

Without a system to monitor, track, or account for untested kits, an overall non-prioritization of sex crime prosecutions, a lack of funding, and a mistrust of survivors, there was little incentive for local law enforcement to test sexual assault kits as they came in.

# Efforts to End the Backlog: The New York City Model

The City of New York and the State of New York have long been leaders in DNA testing, and the Sexual Assault Kit Backlog Elimination Grant Program aimed to expand upon this success. In the 1980s and 1990s, New York City's protocol was to test kits only after an arrest had been made, or if several cases were thought to be part of a criminal pattern. The New York City Police Department (NYPD) sent these select kits to the Office of the Chief Medical Examiner (OCME) for testing. Though OCME could extract a DNA profile to identify an offender, there was no centralized databank to store and link DNA samples.<sup>1</sup>

The above protocols created a backlog of approximately 17,000 untested rape kits in New York City, representing thousands of unsolved cases and thousands of survivors awaiting justice. To address this women's and human rights issue, the Manhattan District Attorney's Office, in conjunction with the NYPD and OCME, began examining the stockpile of untested forensic evidence in the City's custody.

Because police paperwork was missing vital case-related information (e.g., the victim's name and whether or not an arrest had been made), prosecutors could not discern which kits should be prioritized for testing. Therefore, rather than triage kits based on the nature of the victim's relationship with the perpetrator or type of assault, the Manhattan District Attorney's Office and law enforcement partners developed the "forklift" approach: test **all** backlogged kits—regardless of the status, age, or facts of the case.

A catalyst for this initiative was the expansion of the FBI's Combined DNA Index System (CODIS). New York State joined

## What is the “forklift” approach?

The Manhattan District Attorney's Office developed the “forklift” approach in 2000 to test approximately 17,000 untested sexual assault kits (SAKs). This method embraces the testing of all backlogged SAKs, irrespective of the type of kit or the facts of the case.

CODIS in 2000, which allowed New York City to upload thousands of samples into a centralized, nationwide databank. Because OCME could not test all 17,000 kits, the City of New York contracted with private labs (Bode, Cellmark, and Gene Screen) to expedite the testing effort. Each private lab tested roughly 200 kits per month.

<sup>1</sup> The New York State DNA Databank became operational in August 1996, with the first hit, or match, linking an offender with DNA evidence from a crime scene in February 2000. The databank is a part of the national CODIS.

Through this process, the Manhattan District Attorney's Office uncovered a number of deficiencies in how New York City prosecuted sex crimes. At the time, cases were expiring every day because New York had a 10-year statute of limitations on sexual assaults, which deterred numerous cold-case investigations. The NYPD's evidence storage system lacked bar codes or other modern tracking systems, which hampered testing efforts. Law enforcement agencies and courts lacked data-information sharing systems, which made it impossible to determine whether a kit in NYPD storage came from an open or closed case, the details of the type of case, or if an arrest had been made.

To enhance testing and prosecutorial efforts, the Manhattan District Attorney's Office created the nation's first specialized unit comprising of senior sex crimes prosecutors and sex crimes detectives to investigate and prosecute the CODIS hits that resulted from cold case DNA. These prosecutors utilized pioneering methods to indict DNA

## What Is a John Doe Indictment?

**Sex crimes prosecutors at the Manhattan District Attorney's Office utilized a strategy known as a "John Doe" indictment to stop the statute of limitations on certain felony sexual assault cases that involve DNA evidence. With a "John Doe" indictment, prosecutors can commence a criminal case by indicting a DNA profile, even if the assailant's name remains unknown to law enforcement. Future CODIS hits can then positively identify the assailant and the prosecution can proceed.**

## ***Police, Tracing 'John Doe' DNA, Name Suspect in Old Sex Crime***

By SABRINA TAVERNISE OCT. 28, 2004

Eight years ago, a man tried to rape a woman in a Canal Street subway station on Halloween, prosecutors say. He could not be found, and in 2001, before the statute of limitations on the crime ran out, prosecutors drew up an indictment based on a DNA profile.

This month, the profile turned up a match to a man named David Martinez, prosecutors said. Mr. Martinez was arrested yesterday in what Robert M. Morgenthau, the Manhattan district attorney, said was New York State's first arrest based on what is known as a John Doe indictment, which uses DNA samples to charge an unknown sexual attacker before the statute of limitations expires.

profiles even when the name of the assailant remained unknown to law enforcement, thereby stopping the clock on the statute of limitations in cases where no CODIS match had been made (a method now referred to as a “John Doe” indictment).

Overall, the forklift approach proved to be extremely effective, generating more than 2,000 DNA matches in CODIS and 200 cold case prosecutions citywide. There were many benefits to testing every kit, as CODIS hits helped prosecutors proceed with cases that may have traditionally been closed. In total, the forklift approach allowed the Manhattan District Attorney’s Office to file 49 indictments based on DNA cold case hits. Combined, those offenders are now serving more than 900 years in prison.

In one notable case, the Manhattan District Attorney’s Office convicted Joseph Giardala for a 1995 knifepoint robbery and assault. A rape kit was collected immediately following the attack, but a DNA profile was not developed until 2002. The DNA did not match a preexisting profile in the national databank, so the Office proceeded with a “John Doe” indictment, requiring the survivor to testify before a Grand Jury to prevent the case from expiring due to the statute of limitations. In 2015, twenty years after the original alleged attack, Giardala’s DNA profile was entered into CODIS after he was arrested for a low-level crime in Florida. His DNA matched the profile listed on the “John Doe” indictment. Just over a year later, the survivor testified for a second time and the jury convicted Giardala of rape, robbery, sodomy, and sexual abuse. He was sentenced to 22-to-68 years in prison.<sup>8</sup> This case demonstrates the ongoing power of testing sexual assault kits and how a national databank can leverage investigative power from one state to solve crimes in another, decades after testing a backlog.

The forklift approach also highlighted the power of DNA to exonerate the innocent. In 1992, Michael Mercer was convicted of raping a 17-year-old girl in the elevator of her apartment building and was sentenced to between 20-and-a-half-to-41 years in prison. Had the Manhattan District Attorney’s Office triaged kits for testing, this kit would likely have remained in storage because the associated case had an existing trial conviction. When the rape kit was tested using the forklift approach in the early 2000s, the DNA profile did not match Michael Mercer, but instead identified Arthur Brown, a convicted serial rapist, as the offender. Mercer was exonerated after serving 12 years in prison.<sup>9</sup>

Based on the clear success of New York City’s testing efforts, New York State passed legislation to eliminate the statute of limitations for many first-degree sexual assaults and expanded the convicted offender database. Now, New York State takes DNA from all convicted felons and all those convicted of Penal Law misdemeanors. Through these testing efforts, New York State likewise established a new notification system. When a DNA profile from a rape kit matches an existing profile in CODIS, local law enforcement—including sex crimes prosecutors and investigators—and the local crime lab immediately and automatically receive an electronic notification. This helps ensure that every hit will be acted on quickly.

Years after New York developed the forklift approach, other cities, such as Detroit and Houston, replicated this testing model with great success. In 2009, the Wayne County Prosecutor’s Office in Detroit discovered more than 11,000 untested rape kits during a tour of an abandoned police warehouse. Wayne County Prosecutor Kym Worthy sought and received funding to test a

random sample of 400 of those kits, which generated so many leads that the National Institute of Justice funded the testing of an additional 1,600 kits. This resulted in 473 hits in the national DNA database, including hits linking to crimes committed in 23 other states. The Wayne County Prosecutor's

Office identified 127 potential serial rapists, and obtained 14 convictions. Encouraged by those results, private donors contributed \$150,000 to the initiative and, in 2013, the Michigan State legislature allocated \$4 million to test all of Detroit's remaining kits.

# THE MANHATTAN DISTRICT ATTORNEY'S Sexual Assault Kit Backlog Elimination Grant Program

**B**etween 2013 and 2014, the Manhattan District Attorney's Office secured more than \$800 million in criminal asset forfeiture funds from settlements with international banks that violated U.S. sanctions.<sup>10</sup> Manhattan District Attorney Cyrus R. Vance, Jr., had the vision and commitment to invest these forfeiture dollars in impactful projects that improve public safety. In 2015, the District Attorney's Office implemented the Sexual Assault Kit Backlog Elimination Grant Program.

## Expression of Interest and Request for Proposals

District Attorney Vance committed to using these forfeiture funds to expand upon the Office's groundbreaking work in cold case DNA testing. Because rapists often commit crimes in different states, this national initiative had the potential to identify offenders and prevent crimes across all 50 states. To better understand the scope of the backlog nationwide, the Manhattan District Attorney's Office first asked interested jurisdictions to submit an Expression of Interest detailing their local rape kit backlog and describing their individual needs and challenges surrounding kit testing.

Representatives from 40 police departments, public labs, prosecutors' offices, and government agencies across 26 states responded to this Expression of Interest. In total, these jurisdictions indicated that there were at least 70,000 rape kits in need of testing. The estimated number of backlogged kits varied widely from jurisdiction to jurisdiction, ranging from 17 to an estimated 9,000 untested kits. Most jurisdictions indicated that their untested rape kits spanned multiple years, and in some cases, were decades old.

On April 1, 2015, the District Attorney's Office released a request for proposals (RFP), which invited jurisdictions from

across the country to apply for up to \$2 million to test backlogged sexual assault kits. As part of the application process, jurisdictions were required to submit information about the size and scope of their untested kits, their current testing policies, and their willingness to follow best practices determined by the Manhattan District Attorney's Office and its partners.

## Grant Model and Requirements

The Manhattan District Attorney's Office defined a "backlogged kit" as any SAK connected to a reported sexual assault that had not been tested within 365 days of being logged into law enforcement evidence inventory. Because the Manhattan District Attorney's Office could not fund the testing of all backlogged kits, the Sexual Assault Kit Backlog Elimination Grant Program prioritized kits that had languished for more than a year.

To tackle this backlog, the grant program adopted the "forklift" approach, which requires the testing of **every single** untested or partially tested sexual assault kit, regardless of the facts of the case. If a jurisdiction had more kits than could be tested with available funding, they were required to send a random sample to the lab. The only kits excluded from testing were those where the victim did not consent to testing or where evidence existed that no crime was committed (e.g., the victim recanted).

In addition to the forklift approach, jurisdictions who applied for funding under the Sexual Assault Kit Backlog Elimination Grant Program were required to adhere to the following best practices:

- The development of a multi-disciplinary testing strategy that involved police, prosecutors, system- and community-based victims' advocates, forensic medical personnel, and laboratories.
- A commitment to entering all eligible DNA profiles into CODIS within a reasonable timeframe.

Grantees were also encouraged to:

- Commit to eventually testing all untested kits, including establishing process or policy changes, as well as secure ongoing funding to ensure that all kits within the jurisdiction are tested going forward.
- Commit to investigating and prosecuting any DNA hits that result from testing.
- Develop a coordinated strategy to notify and engage victims following a CODIS hit.
- Create a mechanism to assure that police, prosecutors and the lab are alerted simultaneously in the event of a CODIS hit.

This grant program aimed to help end the rape kit backlog by testing as many sexual assault kits as possible. Therefore, jurisdictions could only use District Attorney funding for kit testing; funding could not be used for related costs, such as investigating and prosecuting cases, inventorying kits, creating data- or information-sharing systems, or on-site training. In the spirit of collaboration, however, a complementary program run by the Bureau of Justice Assistance provided select training and technical assistance to Sexual Assault Kit Backlog Elimination Grant Program grantees.

## Awardees

In September 2015, the Manhattan District Attorney's Office committed a historic \$38 million to 32 jurisdictions across 20 states. District Attorney Vance announced this grant program at a ceremony on September 10, 2015, at OCME with Vice President Joe Biden, Attorney General Loretta E. Lynch, and Mariska Hargitay, founder of the Joyful Heart Foundation.



**“More than a decade ago, New York became the first major city to eliminate its rape kit backlog, and to make a commitment to ensuring that we would never have one again. Now, today, we are going to help cities, counties, and states—across the country, from coast to coast—do exactly the same.”**

*—Manhattan District Attorney  
Cyrus R. Vance, Jr.,  
on September 10, 2015*

**“The groundbreaking initiative we are announcing today is part of the Justice Department’s longstanding efforts to support survivors of sexual violence and to bring abusers to justice. For anyone who has felt isolated and afraid, left out and left behind as a result of a sexual crime, our message is clear: we will not forget you. We will not abandon you. You are not alone.”**

*—Attorney General Loretta E. Lynch,  
on September 10, 2015*

**“Rape kits are an essential tool in modern crime fighting—not only for the victim, but, for the entire community. Studies show we solve up to 50 percent of previously unsolved rapes when these kits are tested. When we solve these cases, we get rapists off the streets. For most survivors, seeing their rapists brought to justice, and knowing that they will not return, brings peace of mind and a sense of closure. The grants we’re announcing today to reduce the national rape kit backlog will bring that sense of closure and safety to victims while improving community safety.”**

*—Vice President Joe Biden,  
on September 10, 2015*

**“To me, the rape kit backlog is one of the clearest and most shocking demonstrations of how we regard these crimes in our society. Testing rape kits sends a fundamental and crucial message to victims of sexual violence: You matter. What happened to you matters. We are so grateful to Vice President Biden for his continued leadership on this issue, and to Attorney General Lynch and Manhattan District Attorney Vance for recognizing that survivors deserve justice and our finest efforts to give them everything we can to help them heal.”**

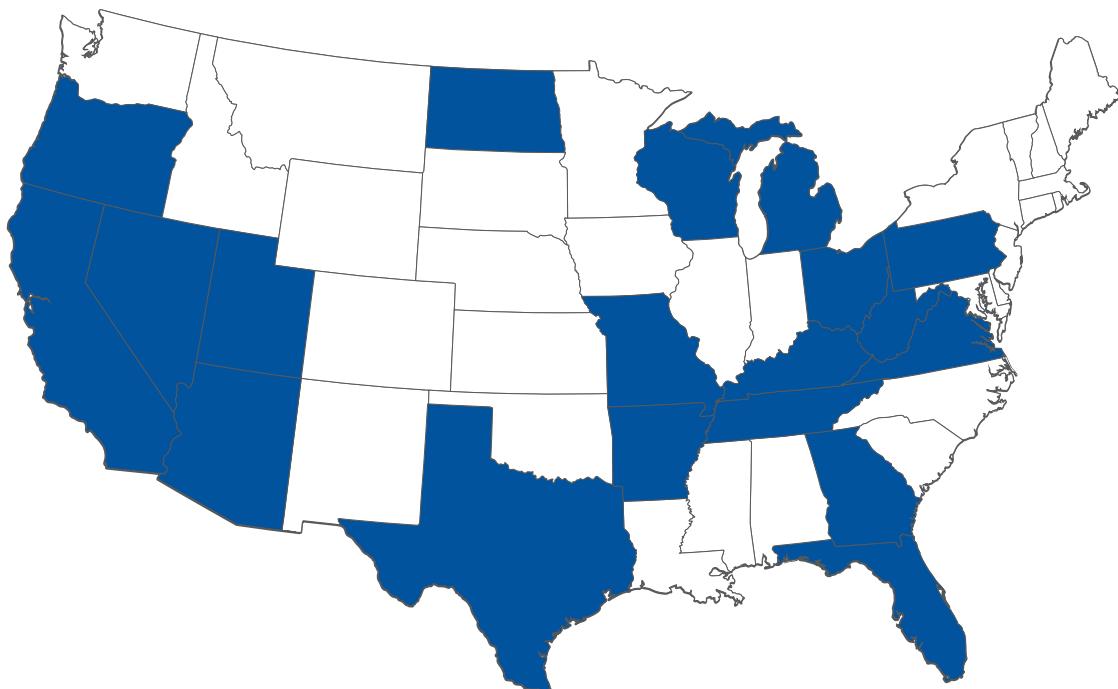
*—Mariska Hargitay,  
founder of the Joyful Heart Foundation,  
on September 10, 2015*

The 32 grantees funded through this program include:<sup>II</sup>

Jurisdiction	State	Award	Kits
Arkansas State Crime Laboratory	AK	\$ 97,121	1,260
Maricopa County Attorney's Office	AZ	\$ 1,929,145	3,087
Tempe Police Department	AZ	\$ 363,699	546
Tucson Police Department Crime Laboratory	AZ	\$ 1,038,000	1,452
Alameda County District Attorney's Office	CA	\$ 835,830	1,160
California Department of Justice	CA	\$ 1,606,239	1,964
Contra Costa District Attorney's Office	CA	\$ 1,841,535	1,246
Riverside Police Department	CA	\$ 433,800	458
Florida Department of Law Enforcement	FL	\$ 1,268,540	1,748
Miami-Dade Police Department	FL	\$ 1,968,246	3,100
Tallahassee Police Department	FL	\$ 163,939	184
Georgia Criminal Justice Coordinating Council	GA	\$ 1,999,982	3,462
Kentucky State Police	KY	\$ 1,988,507	3,173
Michigan State Police	MI	\$ 1,996,991	3,440
The City of Flint Police Department	MI	\$ 163,590	309
Kansas City Police Crime Laboratory	MO	\$ 337,197	527
Charlotte Mecklenburg Police Department	NC	\$ 557,974	885
North Dakota Office of the Attorney General	ND	\$ 341,667	210
Las Vegas Metropolitan Police Department	NV	\$ 1,995,874	3,039
Ohio Attorney General's Bureau of Criminal Investigation	OH	\$ 1,998,300	3,034
Multnomah County District Attorney's Office	OR	\$ 1,995,453	2,913
Allegheny County Office of the Medical Examiner	PA	\$ 254,437	405
City of Philadelphia Police Department	PA	\$ 419,788	601
City of Memphis Division of Police Services	TN	\$ 1,995,000	3,110
Tennessee Bureau of Investigation	TN	\$ 973,311	1,265
City of Austin Police Department	TX	\$ 1,994,648	2,450
Jefferson County Regional Crime Laboratory	TX	\$ 789,223	586
Travis County Sheriff's Office	TX	\$ 97,305	83
Utah Bureau of Forensic Services	UT	\$ 1,271,870	1,977
Office of the Attorney General of Virginia	VA	\$ 1,399,989	1,797
Wisconsin Department of Justice	WI	\$ 1,999,967	3,381
West Virginia State Police Forensic Laboratory	WV	\$ 1,763,281	2,400

<sup>II</sup> The above chart includes initial award amounts. Select jurisdictions adjusted their budgets throughout the grant program.

## Twenty states were funded through the Manhattan District Attorney's Office's initiative



## Partnerships

### THE BUREAU OF JUSTICE ASSISTANCE

The Bureau of Justice Assistance (BJA), part of the Office of Justice Programs within the U.S. Department of Justice, has been a vital partner throughout the development and implementation of the Sexual Assault Kit Backlog Elimination Grant Program. In 2015, BJA created a complementary, \$40 million program to help end the nationwide backlog. BJA's ongoing Sexual Assault Kit Initiative (SAKI) aims to provide jurisdictions across the country with resources to develop and implement comprehensive, multi-disciplinary rape kit reform, including

testing and inventorying kits, funding investigations and prosecutions that stem from DNA hits, bolstering victims' services, and creating tracking systems. In 2018, BJA awarded roughly \$43 million to help end the backlog.<sup>11</sup> In total, since 2015, BJA has committed \$154 million to 54 jurisdictions across 35 states.

The Manhattan District Attorney's Office and BJA collaborated during the solicitation process to ensure that efforts were well-coordinated at the national level. Combined, BJA and the Manhattan District Attorney's Office's programs have sent roughly 95,000 backlogged kits for testing.<sup>12</sup>

## PRIVATE FORENSIC LABORATORIES

Testing a single sexual assault kit costs on average between \$1,000 and \$1,500. To ensure that jurisdictions could test as many kits as possible, the Manhattan District Attorney's Office established agreements with two private forensic labs before the start of the grant program—Bode Cellmark Forensics in Virginia and Sorenson Forensics in Utah. While some jurisdictions relied on local public labs for testing, many outsourced their kits to one of these two private labs. For interested jurisdictions, Bode and Sorenson agreed to complete initial kit testing for between \$550 and \$650 per kit. In total, these labs tested tens of thousands of backlogged sexual assault kits through this initiative.

Both private and public labs reported that they developed more efficient, automated processes to streamline kit testing as a direct result of this program.

## JOYFUL HEART FOUNDATION

The Joyful Heart Foundation (Joyful Heart), a national policy and advocacy organization dedicated to providing resources and support to survivors of sexual assault, has made the elimination of the rape kit backlog its top priority. Joyful Heart served as a strategic advisor throughout the development of the Sexual Assault Kit Backlog Elimination Grant Program. Through this partnership, the Manhattan District Attorney's Office likewise supported Joyful Heart as it finalized a first-of-its-kind report on best practices for victim notification policies and protocols.<sup>13</sup>

# Grant Outcomes and Successes

## 32 jurisdictions across 20 states participated in the Sexual Assault Kit Backlog Elimination Grant Program,

which ran from September 2015 to September 2018.<sup>III</sup> During this time, these jurisdictions helped bolster the CODIS databank, opened hundreds of cold cases, commenced numerous prosecutions, and made significant strides in ending their statewide backlogs. Most importantly, the program brought long-awaited justice to many survivors. For a brief overview of each jurisdiction's work to date, please see the Appendix.

## Bolstering the National DNA Databank

The Sexual Assault Kit Backlog Elimination Grant Program tested a total of 55,252 backlogged kits from across the country. Of the 55,252 kits sent for testing, 20,980 (38%) produced a CODIS eligible profile, meaning the kit met the federal standards for upload into the CODIS DNA databank. Of these eligible profiles, 18,803 have been uploaded into CODIS. The remaining eligible profiles are either undergoing a technical review or are awaiting upload into the databank by an accredited local lab.

These 18,803 CODIS uploads help bolster a comprehensive DNA databank that can aid investigations, identify serial offenders, and solve crimes across the country. The CODIS profiles created through this grant program have hit to existing DNA reference samples from 42 states, plus Washington, D.C., which supports the District Attorney's Office's view

that testing the rape kit backlog should be a national public safety priority.

## CODIS Hits and Investigative Activities

Resulting from these testing efforts, there have been 9,228 CODIS hits to date (49% of the 18,803 profiles entered into the databank). A CODIS hit means that the DNA profile obtained from the sexual assault kit matched to an existing profile in CODIS. Of the hits to date, 1,570, or approximately 17%, matched DNA from other sexual assault cases, indicating that many of these profiles are from serial rapists.

Many of these hits helped law enforcement identify a previously unknown assailant, while others confirmed the identity of an offender or linked forensic evidence from across crime scenes. Below is a breakdown of each type of CODIS hit<sup>IV</sup>:

<sup>III</sup> Though the grant program ended on September 30, 2018, jurisdictions will continue to report results, such as CODIS hits and investigative activities, through September 30, 2019. The numbers in this report are subject to change as jurisdictions receive more up-to-date information on testing outcomes.

<sup>IV</sup> Please note that the Manhattan District Attorney's Office created these definitions for the purposes of this grant program, and they do not reflect broadly used CODIS definitions. DNA from roughly 1,100 kits matched an existing profile in CODIS, but the hit type remains unknown at this time. These hits are excluded from the below breakdown.

- **4,231** “offender hits”: A previously unidentified forensic sample hit to a *known* offender sample. For example, a rape kit profile of an *unknown* assailant is uploaded into CODIS and hits to another profile of a known individual. As a result of testing the survivor’s kit, the identity of the perpetrator in the rape case is now known and a law enforcement investigation can commence.
- **3,221** “confirmatory hits”: DNA testing confirms the identity of a convicted perpetrator or a suspect named by a law enforcement agency during an investigation prior to DNA testing. These are instances where the perpetrator was identified and potentially convicted of the associated assault, but the kit was never tested. As such, these hits *confirm* the known suspect.
- **640** “forensic hits”: DNA testing links, or confirms a suspected link, between two or more previously unlinked crimes, but no perpetrator is identified. These are instances where a tested kit hits to one or more crime scene profiles in CODIS, but the identity of the perpetrator is still unknown.

Many of these CODIS hits have aided in cold case investigations and prosecutions nationwide. To date, there have been:

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**186 arrests,**

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**165 prosecutions commenced,  
including**

**160 prosecutions commenced  
with felony sexual assault as the top  
charge,**

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**1 felony prosecution commenced with  
homicide as the top charge, and**

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**64 convictions, including**

**47 felony sexual assault convictions.**

Many local law enforcement agencies have initiated recent investigations resulting from CODIS hits, meaning that these numbers will continue to grow in the months and years ahead.

## Case Examples

Eighteen jurisdictions have made new arrests from testing cold case DNA.

Below are select examples:



### CITY OF MEMPHIS DIVISION OF STATE POLICE SERVICES

In 2016, Memphis tested a rape kit through the Sexual Assault Kit Backlog Elimination Grant Program that helped solve numerous cold cases in South Carolina, Tennessee, and Missouri. In April 1990, 28-year-old Genevieve Zitricki was found dead in Greenville, South Carolina. She was beaten, strangled, and sexually assaulted. Seven years later, a man tied up four women and raped a 14-year-old girl in Memphis, Tennessee. The survivor had a rape kit collected after this assault, though the kit was never tested. In 1998, a mother and her 12-year-old daughter were raped and murdered inside their Missouri home. Shortly after, another woman was shot by a man attempting to break into her house.

In 2016, Memphis tested the decades old rape kit through this initiative. They connected the DNA sample to the other crimes using a new DNA matching system, and then compared the DNA to public genealogical databases. Through these genealogical databases, Memphis law enforcement were able to identify a deceased man, Robert Brasher, as a suspect. Brasher's body was exhumed and his DNA matched the tested kit and the DNA from the other crime scenes.

Police said Brasher killed himself in 1999 while trying to avoid police in Kennett, Missouri during a four-hour standoff. His criminal record included convictions for attempted murder, burglary, impersonating a police officer, and unlawful possession of a weapon.

Brasher was previously convicted of attempted second-degree murder in Florida in 1986. Police said he severely beat and shot a woman. Brasher was also arrested in Arkansas in 1998, two weeks after the Missouri homicides, for breaking into a woman's home and cutting the phone lines.<sup>14</sup>

## FLORIDA DEPARTMENT OF LAW ENFORCEMENT (FDLE)

Kits funded through this initiative helped connect two individuals to unsolved sexual assault cases in Jacksonville. The first case involved a 50-year-old man, Frederick Marshall, who was set for release from prison after serving a sentence for a 2009 felony motor vehicle offense. Just before his release, a newly tested kit connected Marshall's DNA to three unsolved sexual assaults committed in 2008 and 2009. In each case, Marshall offered a stranger a ride, before kidnapping and raping her inside a vacant home in Jacksonville. At least two of the women were assaulted at gunpoint. FDLE has issued an arrest warrant and an Order to Transport for Marshall. The case is pending.

Previously, Marshall was convicted of kidnapping and sexually assaulting a woman in 1988, for which he served six-and-a-half-years in state prison.<sup>15</sup>

In a separate case, FDLE connected 48-year-old Mikel McClusky to a sexual assault cold case from 2006. On March 23, 2018, McClusky was set for release from prison following a six-year sentence for battery. Rather than release McClusky, the State Attorney's Office extradited him back to Jacksonville where he is awaiting trial.

According to the arrest warrant, McClusky assaulted a woman in a vacant home and then left her at a convenience store. He was previously convicted of assaulting a child in Nebraska in 1999 and was later arrested for battery of a juvenile. He is currently being held on a \$500,000 bond for the 2006 assault.<sup>16</sup>

## GEORGIA CRIMINAL JUSTICE COORDINATING COUNCIL

On March 28, 2003, at 12:30 a.m., Atlanta Police Department officers heard a woman screaming in the street. She had been raped at gunpoint in a secluded area of a public park. The assailant then took \$85 from the victim and fled the scene in a Jeep he had stolen earlier in the evening. The victim went to a nearby hospital for a rape kit.

The kit was tested 14 years later through this initiative and identified the assailant as Dandre Shabazz. Upon further investigation, the Fulton County District Attorney's Office discovered that Shabazz's DNA matched 14 other sexual assaults committed between 2001 and 2005. Though Shabazz had been identified as a suspect in 12 of these 14 incidents by 2009, the cases had never been prosecuted. After the CODIS hit confirmed Shabazz's identity in April, 2017, the DA's Office re-opened these investigations and recently indicted him for rape, armed robbery, and related offenses on cases involving 11 victims. The prosecution is pending.

Shabazz is currently serving a 16-year sentence in federal prison for robbery and gun possession and is expected to be released on September 4, 2019.<sup>17</sup>

## LAS VEGAS METROPOLITAN POLICE DEPARTMENT

In January 2018, 51-year-old Arthur Sewall of Nevada was arrested for a cold case murder and sexual assault committed two decades earlier. In March 2016, the Las Vegas Metropolitan Police Department sent a Manhattan District Attorney-funded sexual assault kit to a DNA lab for testing. The kit was originally collected on May 8, 1997, when police discovered the body of a woman who appeared to be sexually assaulted and shot. The DNA profile was subsequently entered into CODIS and hit to Sewall. Following an investigation, police arrested Sewall, who was then living in Reno. He faces charges of murder with a deadly weapon and sexual assault with a deadly weapon.

Sewall had worked at the Las Vegas Metropolitan Police Department (LVMPD) as a Corrections Officer in 1990, and in 1992 he was commissioned as a Police Officer. In February 1997, a few months before the alleged murder, Sewall was arrested for sexual assault and oppression under color of law. He resigned from the LVMPD in March 1997.<sup>18</sup>

## MICHIGAN STATE POLICE

Tony Vandee, 49, from Battle Creek, Michigan, was sentenced to 10-15 years and 11-years-and-four-months-to-30-years in prison and a lifetime on the sex offender registry for committing two sexual assaults nine years apart.

In the first case, Vandee assaulted a 48-year-old woman in 2008 after they had both been drinking under a Battle Creek bridge. The victim tripped, and instead of helping her up, Vandee removed her pants and

raped her. Both were homeless at the time of the assault. The survivor had a rape kit collected in 2008, but it remained untested for eight years.

In the second case, Vandee raped a 23-year-old-woman in 2017 while she was visiting her cousin. In both cases, Vandee blamed alcohol for his actions. He has 34 prior arrests, 10 of which were related to domestic violence.<sup>19</sup>

**One of Vandee's survivors released the following Victim Impact Statement: "When the rape happened I felt violated and ashamed and thought it was my fault and then I started to realize what he done was wrong and it hurt me in a lot of different ways and he shouldn't have done what he did. It caused me a lot of problems in my relationships [...] It's been very difficult going through with all this but he shouldn't be out on the streets hurting any other females, girls, whoever. I hope he goes away for a while. I mean I've got a daughter and a granddaughter and I don't want him out there harming anyone else's daughter or granddaughter. That's one less rapist out there on the streets hurting people."**

## MULTNOMAH COUNTY DISTRICT ATTORNEY'S OFFICE (OR)

On October 31, 2018, 67-year-old Jihad Eldeen Moore Jr. was found guilty of two counts of rape in the first degree and one count of sodomy in the first degree stemming from a 1996 attack. He was sentenced to 15 years in prison. This prosecution is one of the first cases in Oregon to be prosecuted under a DNA exception to the statute of limitations for sex offenses, which allows an extension in the statute of limitations when the defendant is identified through DNA evidence.

**The survivor from this case released the following Victim Impact Statement:** “...**You broke me down and made me question my trust and faith in people and the world. But I made a decision that day. I would not let you win. I would not let you break me. I would not let you change me. I would not let you ruin me. And you know what? You didn't. I still am a nice, trusting, happy person who is not scared of the world, who is not prejudiced against black men. I chose not to let you have any more power over my life and my future. You took advantage of my trust. You should feel ashamed and sorry for what you did to me, but instead you lie and have no remorse. But in the end, I win. I have the power. I win.”**

On June 14, 1996, Moore deliberately targeted and lured a woman to an isolated area in Tom McCall Waterfront Park in downtown Portland. He had her sit on the ground and then brutally assaulted her. Following the assault, Moore forced the victim to walk three paces in front of him, making her think that he was going to shoot her in the back. A DNA sample was collected in 1996 and tested in 2017 through this grant program.<sup>20</sup>

## OHIO ATTORNEY GENERAL'S OFFICE, BUREAU OF CRIMINAL INVESTIGATION

Between 2010 and 2011, a previously unidentified perpetrator raped four women. The first attack occurred in 2010, when a young girl walking by herself was approached by the perpetrator riding a bike. He forced her at gunpoint to an isolated area, where he sexually assaulted her. The second and third assaults occurred about one month apart in 2011. The perpetrator engaged each woman in conversation near the same location before forcing her to a remote area and raping her at gunpoint.

The assailant was unknown to law enforcement prior to the testing of the backlogged kit. Once identified, the Cuyahoga County District Attorney's office brought sexual assault charges against the defendant. The survivors from these cases were initially uninterested in pursuing prosecution, but all agreed to work with law enforcement once they learned the serial offender was still at large. He was convicted of all three assaults and sentenced to 33 years in prison. The perpetrator was also linked to the sexual assault of a woman who was mentally disabled; in consideration of the victim's well-being, however, that case was not pursued.

In a separate case from Ohio, a mother and adult son were assaulted after leaving a work function in Cleveland in 2006. The assailant kidnapped the pair and put the son in the trunk. He then pulled down the mother's pants and digitally penetrated her. The son eventually forced his way out of the trunk and the assailant attacked him, striking the son in the head multiple times. The assailant then began choking the son before shooting him in the chest. Following the assault, the assailant fled on foot. The mother and son were taken to the hospital and the mother's pants were stored in a rape kit that remained untested until 2016.

Back in 2006, investigators discovered a hand print on the trunk, which the assailant left behind while kidnapping the son. Law enforcement identified a suspect from this palm print, but the investigation did not proceed at that time.

When the mother's kit was tested in 2016, technicians developed a male DNA profile from skin cells remaining on the pants.

This profile eventually hit to the palm print that law enforcement identified in 2006. The assailant pled guilty after the start of the trial and received 36 years for Rape, Kidnapping, Attempted Murder, and Firearms Possession. To this day, the son lives with bullet fragments in his chest.

## TUCSON POLICE DEPARTMENT (AZ)

In 2005, a Tucson Police Department detective entered Nathan Loebe's DNA profile into the local CODIS databank. Loebe was a suspected sex offender, though a prosecution against him did not proceed at that time. A decade later, the Tucson Police Department sent roughly 1,400 previously untested sexual assault kits for testing through this grant program. Of those kits, three hit to Loebe's DNA profile. The DNA from these kits also connected Loebe to cold cases in Massachusetts and Colorado.

Tucson Police initiated a full-scale investigation into these assaults and

### Suspected Serial Rapist Impersonated 'Family Ties' Child Star: Police

Nathan Loebe was arrested this week for allegedly sexually assaulting a woman.



Source: <https://abcnews.go.com/US/suspected-serial-rapist-impersonated-family-ties-child-star/story?id=45422011>

discovered that, for years, Nathan Loebe had impersonated Brian Bonsall, an actor on the popular sitcom Family Ties, to assault women he met on online dating sites.<sup>21</sup>

Law enforcement arrested and charged Loebe for a separate assault in Kentucky.

He was then extradited back to Arizona where he was found guilty of twelve counts of sexual assault, five counts of kidnapping, three counts of stalking, and one count of attempted sexual assault.

## Ending Statewide Backlogs and Local Reform

The Sexual Assault Kit Backlog Elimination Grant Program has helped clear numerous state backlogs. Of the thirteen statewide jurisdictions funded under this initiative, six have either eliminated or are close to eliminating their backlogs, including Arkansas, Georgia, Kentucky, Michigan, North Dakota, and Ohio. Multnomah County's work likewise helped Oregon clear its statewide backlog in 2018.

**"The Manhattan District Attorney's Office's Grant played a crucial role in the elimination of the sexual assault kit backlog in the state of Oregon. The grant funding helped establish and guide a collaboration of system partners united in a goal of ensuring every kit was tested. Through the testing process, stakeholders have seen firsthand the significance a tested sexual assault kit has for survivors, the community, and law enforcement."**

*—Tara Gardner, Deputy District Attorney, Multnomah County District Attorney's Office*

## MANDATED TESTING

Between September 2015 and September 2018, many funded states enacted legislation mandating rape kit testing, including Arizona, California, Florida, Michigan, Nevada, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, and Utah. This legislation will prevent future backlogs from developing and can help expedite the testing process more generally. California, for example, recently enacted a law mandating universal testing for all sexual assault kits.<sup>22</sup> In response, Contra Costa developed new policies and procedures to

ensure that all kits are submitted to a lab and tested within 120 days of collection.

In 2015, three Arizona jurisdictions—the Maricopa County Attorney's Office, the Tempe Police Department, and the Tucson Police Department Crime Lab—received funding from the Manhattan District Attorney's Office to help test their backlogs. Four months later, Arizona Governor Doug Ducey issued an executive order<sup>23</sup> requiring a statewide audit of untested sexual assault kits and the establishment of the Arizona Sexual Assault Evidence Collection Kit Task Force. The task force reported 6,424<sup>24</sup>

untested rape kits across the state; the Sexual Assault Kit Backlog Elimination Grant Program funded the testing of 5,085 of these kits. Maricopa County and the City of Phoenix received additional BJA funding to continue their testing efforts.

To prevent future backlogs in Arizona, the legislature passed a comprehensive law<sup>25</sup> in 2017 that requires hospitals to notify law enforcement agencies within 24 hours of completing a rape kit exam. Law enforcement must retrieve kits from the hospital within five days and submit them to a lab for testing within 15 days of collection. The law also requires law enforcement agencies and laboratories to report annually on the number of kits collected and tested.

## TRACKING SYSTEMS

Numerous jurisdictions have likewise developed policies and procedures to better track their sexual assault kits throughout the testing process. Utah, Kentucky, Nevada, Oregon, and Texas, amongst others, are currently developing systems to track both backlogged and new sexual assault kits. Tracking systems can be a powerful tool for law enforcement and survivors. Texas, for example, recently enacted legislation that established a statewide tracking system for rape kits. With this new system, survivors can access secure and confidential information on the status of their rape kit and law enforcement can better audit and account for untested kits. This Texas initiative is modeled after Washington's first-of-its-kind statewide tracking system.<sup>26</sup>

Oregon, which cleared its backlog in 2018, recently enacted comprehensive legislation that similarly requires the creation and implementation of an electronic, statewide tracking system that will allow anonymous

and confidential access to kit information for survivors.<sup>27</sup> This legislation comes one year after Oregon mandated annual audits of untested rape kits and guidelines requiring all new kits be sent for testing within 14 days of collection.<sup>28</sup> This legislation comes three years after Portland received both Manhattan District Attorney and BJA funds to initiate backlogged kit testing.

In Michigan, the Michigan State Police have worked with the Michigan Attorney General, investigation and prosecution teams across numerous counties, the Michigan Domestic and Sexual Violence Prevention and Treatment Board, the Prosecuting Attorney's Association of Michigan, and Michigan State University to develop a comprehensive response to sexual assault. Part of this strategy includes the creation of a statewide sexual assault kit tracking system. This system has gone live in 40 counties and is expected to be complete in June, 2019.

## MULTIDISCIPLINARY TEAMS

During the 3-year grant program, many jurisdictions likewise created comprehensive multidisciplinary teams that will continue this vital work for years to come. The Nevada Statewide Sex Assault Kit Working Group has met continuously throughout the grant program, with the overarching goal of ending the backlog statewide.<sup>29</sup> Ongoing initiatives of this group include working on a statewide Victim Notification Protocol, developing a mechanism to notify victims of Nevada's DNA testing efforts, enhancing investigative and prosecution efforts for sexual assault kits, and applying federal grant funds to purchase a system to mitigate the automated statewide tracking of sexual assault kits.

Participants in this group include the Nevada Attorney General's Office, the Nevada Legislative Assembly, the Rape Crisis Center of Las Vegas, the Center for Forensic Nursing Excellence, the University of Nevada, and numerous local prosecutors' offices and police departments, including the Las Vegas Metropolitan Police Department, which received funding under the Sexual Assault Kit Backlog Elimination Grant Program.

This work will help bolster recent legislative reform<sup>30</sup> that mandates rape kit testing within 120 days of collection (law enforcement must send kits to the lab within 30 days of collection). This law likewise earmarked \$3 million to the Attorney General's Office to aid labs as they test the backlog.

Jurisdictions such as the Miami-Dade Police Department, the State of California Department of Justice, the Utah Department of Public Safety, the Office of the Attorney General of Virginia, and the Charlotte Mecklenburg Police Department in North Carolina similarly created comprehensive working groups to enhance coordination and communication between stakeholders

who are working collectively to end the backlog. In Charlotte, the stakeholder group includes members of the local police department, district attorney's office, sexual assault nurse examiners (SANEs) from two of the largest hospital systems in the county, and a local non-profit that advocates for survivors' rights. These team meetings work to strengthen victim-centered sexual assault responses in Mecklenburg County.

# A Look to the Future

## **T**hrough the Sexual Assault Kit Backlog Elimination Grant Program, 32 jurisdictions

across 20 states tested roughly 55,000 previously backlogged rape kits. Though this program substantially contributed to the national movement to end the backlog and bolster the nationwide DNA databank, hundreds of thousands of kits likely remain in storage facilities across the country, with more being discovered each day. To clear the existing backlog, prevent future backlogs, and ensure that survivors of sexual assault receive appropriate support from law enforcement, states must 1) enact legislation that mandates and funds rape kit testing, and 2) further integrate victim-centered and trauma-informed approaches into their practice.

## **Legislative Reform**

Below are four key legislative recommendations to help clear the existing backlog and prevent future backlogs from occurring:

- **Enact state legislation mandating the timely testing of all new rape kits, with ongoing funding guaranteed by the state.**

In many states, local law enforcement can determine on a case-by-case basis which kits to test and which to keep in storage, a practice that has greatly contributed to the nationwide backlog. Mandated testing will eliminate biased decision-making and expedite the testing process. Arizona, California, Florida, Georgia, Michigan, Nevada, New York, North Carolina, Ohio, Oregon, Tennessee, Texas, and Utah, among others, have enacted laws that require the timely testing of all new rape kits.

- **Enact state legislation requiring the testing of all backlogged kits.** By testing the backlog, states will continue to bolster the CODIS databank and solve cold case sexual assaults across the country. Colorado, Ohio, Texas, and Massachusetts, among others, now require mandatory backlog testing.

- **Require annual statewide inventories of untested sexual assault kits and develop systems to track kits throughout the testing process.**

To end the backlog, jurisdictions must continually inventory the number of untested kits in their custody and create infrastructure to track kits as they are tested. These tracking systems can likewise guarantee that survivors receive up-to-date, confidential information about their kits. Alaska, California, Georgia, Idaho, Illinois, Indiana, Oregon, Massachusetts, Missouri, and North Carolina, among others, are required to conduct annual inventories. Arizona, Connecticut, Idaho, Indiana, Maryland, Massachusetts, Missouri, Ohio, Oregon, Texas, Washington, and Utah, among others, have established or are establishing rape kit tracking systems.

- **Eliminate the statute of limitations for felony sexual assault charges.** Thousands of cold case investigations solved through DNA evidence are not prosecutable because they are beyond the statute of limitations. California, Delaware, Illinois, Kentucky, Maryland, North Carolina, South Carolina, Virginia, and West Virginia,

and Wyoming have no time limit for filing charges for all or nearly all felony sexual assaults. More than two dozen other states, including New York, have eliminated the statute of limitations for first-degree sexual assaults when DNA evidence is present.

## Victim-Centered Approaches

In addition to legislative reforms, local law enforcement must further integrate victim-centered approaches into their practice. In general, law enforcement receives insufficient training on the neurological and psychological impacts of trauma and how a sexual assault may influence a survivor's behavior. This lack of training has repercussions for both the survivor's well-being and the criminal case.

Following a sexual assault, a survivor may be unable to recall certain details of her

attack or remember events chronologically.<sup>31</sup> Though these are common neurologic responses, law enforcement may still view this individual as unreliable or close the investigation because of inconsistencies in the survivor's story. Traditional interviewing techniques may further isolate a survivor and make her less likely to engage with law enforcement moving forward. Providing local police departments and prosecutors' offices with comprehensive training in trauma, including victim-centered interviewing techniques, can aid in rectifying these issues and build trust between the survivor and law enforcement.

Criminal justice agencies must similarly ensure that survivors receive comprehensive services and supports following an assault, such as immediate medical care, when appropriate, and referrals to crisis counseling and other trauma-specific services. Victims' advocates can help connect survivors to these resources and support survivors

**Following an assault, survivors may become hyper-vigilant, experience flashbacks, have heightened anxiety, and feel as if they are losing control. In a recent Victim Impact Statement, a survivor from Calhoun County, Michigan describes how a 2002 assault has impacted her life. Her kit was tested in 2016 through this initiative: "After it first happened I didn't leave the house for a few months. I just laid on the couch because I just didn't want to move. I couldn't lay on my back for so long. It felt very uncomfortable and unsafe. And it still happens to this day especially since it all came back up again. I just don't like people touching me. Even my kids; when they try to hug me, I feel like I can't breathe. It makes me feel terrible to tell them to just stop. And it's escalated again since this trial came back up. I'm very hyper-vigilant. I deal with a lot of triggers. I can't let someone else drive. I always have to sit in the corner with my back to the wall so I can see everyone coming and going. When I smell a man's cologne I get nauseous and heightened and a lot of other things that are hard to talk about."**

throughout the criminal justice process. Law enforcement and victims' advocates should likewise refer survivors to the Crime Victims Fund,<sup>32</sup> established under the 1984 Victims of Crime Act (VOCA), which can provide compensation to victims and reimburse out-of-pocket losses stemming from an assault.

Numerous states, including New York and Georgia, are establishing a Survivors' Bill of Rights to guarantee service delivery and create transparency and accountability within the medical and criminal justice systems. In December 2018, New York State Governor Andrew Cuomo signed legislation<sup>33</sup> instructing the New York State Department of Health, in consultation with

the Division of Criminal Justice Services and the Office of Victim Services, to notify survivors of their legal rights following an assault. The bill guarantees that survivors have the right to consult with a rape crisis or victim assistance organization, receive appropriate health care services at no cost, and receive updates on their rape kit and the status of their case.

# Conclusion

**T**he rape kit backlog is a tragic and longstanding failure of government and law enforcement at all levels, the impact of which has been borne disproportionately by women.

**by women.** Over the last three years, jurisdictions from across the country have taken tremendous strides toward remedying this failure. As a first step, many law enforcement agencies have committed to testing all rape kits in their possession, and legislators have passed comprehensive, statewide reform to ensure that no future backlogs develop.

It is the Manhattan District Attorney's Office's hope that this work will extend well beyond the Sexual Assault Kit Backlog Elimination Grant Program. As more survivors are empowered to come forward and engage with the criminal justice system, law enforcement must continuously strengthen victims' services, integrate victim-centered approaches into their practice, and prioritize sex crime investigations and prosecutions. Stakeholders from around the country must come together to ensure that all survivors receive justice. We must guarantee that no sexual assault kit goes untested in this country again.

# Appendix: Grantee Overviews<sup>V</sup>



## ARKANSAS

### ARKANSAS STATE CRIME LABORATORY

<b>Number of backlogged kits sent for DNA testing:</b>	<b>1,260</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>274</b>
<b>Number of CODIS hits:</b>	<b>177</b>

**Impact:** "The Manhattan District Attorney's Office's grant program was instrumental for Arkansas Law Enforcement agencies across the state to become aware of the critical need to submit sexual assault cases utilizing the 'forklift' approach. Even though Arkansas does not currently have a statute requiring the submission of all kits, most agencies have adopted the policy to do so. Arkansas, through this grant, afforded the lab the opportunity to start a 'culture' change in law enforcement with respect to the benefits of obtaining DNA profiles which would potentially help their case but connect serial criminals. This was the first step in a holistic, victim centered approach to sexual assault investigation for the state of Arkansas."



## ARIZONA

### MARICOPA COUNTY ATTORNEY'S OFFICE

<b>Number of backlogged kits sent for DNA testing:</b>	<b>3,087</b>	<b>Number of arrests:</b>	<b>14</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>1,409</b>	<b>Number of prosecutions commenced:</b>	<b>14</b>
<b>Number of CODIS hits:</b>	<b>671</b>	<b>Number of convictions:</b>	<b>7</b>

**Impact:** "The Manhattan District Attorney's Office's award jumpstarted the need in Maricopa County to test the backlog and we were able to test most of it with the DA's grant alone. It also opened the door for our office to be awarded three consecutive SAKI awards, not only to test the rest of the backlog, but to also provide support, resources, and training to our law enforcement partners in dealing with sexual assault investigations. Countywide, there were a total of 4,599 rape kits in the backlog. 93% has been submitted for testing and 85% has been tested to completion. By the end of September 2019, the backlog in Maricopa County will be tested to completion!"

Also, through our Manhattan District Attorney's Office grant meetings with all our law enforcement partners, we realized the need of a guiding document for all those involved in the care of sexual assault victims and for those who strive to hold those who commit these crimes accountable. It soon led to the completion of the first-ever written Maricopa Sexual Assault Protocol which was published in November 2017. This effort was multi-disciplinary and included representatives from small and large police

<sup>V</sup> The numbers reported in the Grantee Overview are subject to change as sites receive more up-to-date information on testing outcomes.

departments, crime laboratories, forensic nurses, prosecutors, and system and community-based victim advocates. Since then, our law enforcement partners are working on aligning their internal policies in dealing with sexual assault cases to our protocol."

## TEMPE POLICE DEPARTMENT

<b>Number of backlogged kits sent for DNA testing:</b>	<b>546</b>	<b>Number of arrests:</b>	<b>12</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>282</b>	<b>Number of prosecutions commenced:</b>	<b>11</b>
<b>Number of CODIS hits:</b>	<b>104</b>	<b>Number of convictions:</b>	<b>7</b> <small>(1 used as an aid in another case)</small>

**Impact:** "The Manhattan District Attorney's Grant has allowed our agency to get an accurate inventory and then fund the testing for untested sexual assault kits. This led to establishing two full-time 'cold case' investigators to investigate these cases. These investigations have resulted in several arrests/convictions, taking offenders off the street. In addition, our review and investigations have reduced our backlog to zero, and allowed numerous victims/survivors to experience justice and be reconnected with needed counseling. We are now part of a Maricopa County Multi-Disciplinary Sexual Assault Team, we took part in establishing a County wide protocol and we have changed our Departments standard operating procedures in how we investigate sexual assaults and how/when sexual assault kits are tested to ensure we are following best practices."

## TUCSON POLICE DEPARTMENT CRIME LAB

<b>Number of backlogged kits sent for DNA testing:</b>	<b>1,452</b>	<b>Number of arrests:</b>	<b>3</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>658</b>	<b>Number of prosecutions commenced:</b>	<b>3</b>
<b>Number of CODIS hits:</b>	<b>330</b>	<b>Number of convictions:</b>	<b>7</b> <small>at this time</small>

**Impact:** "The grant enabled the Tucson Police Department to analyze untested Sexual Assault Kits (SAKs). Without this funding, this analysis of 1,452 kits would not have been possible. As a result of this grant, we have developed and incorporated more streamlined procedures at the TPD Crime Lab, so that we can process SAKs more efficiently."



## CALIFORNIA

### ALAMEDA COUNTY DISTRICT ATTORNEY'S OFFICE\*

<b>Number of backlogged kits sent for DNA testing:</b>	<b>1,058</b>	<b>Number of arrests:</b>	<b>3</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>357</b>	<b>Number of prosecutions commenced:</b>	<b>3</b>
<b>Number of CODIS hits:</b>	<b>128</b>	<b>Number of convictions:</b>	<b>2</b>

**Impact:** "Since identifying 1,952 untested SART kits in Alameda County back in 2011, we have completely eliminated the backlog and can report that there are NO untested SART kits in law enforcement property and evidence rooms in Alameda County. [...] We have changed the culture of SART kit collection in Alameda County—ALL kits are now tested on a contemporaneous basis, ensuring no backlog will ever form again." \*The above numbers were provided after this report was finalized, and are more up-to-date than those included in the body of this report.

## CALIFORNIA DEPARTMENT OF JUSTICE

<b>Number of backlogged kits sent for DNA testing:</b>	<b>1,964</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>594</b>
<b>Number of CODIS hits:</b>	<b>280</b>

**Impact:** "For the last decade, CA DOJ BFS has been making every effort to analyze batches of unexamined kits as our agencies became aware of their existence. The Manhattan District Attorney's Office's grant allowed DOJ to focus its efforts on current Sexual Assault (SA) kit workload. Effective January 1, 2016, CA DOJ mandated that its labs analyze every newly collected SA kit to meet the expectations of the Sexual Assault Victims' Bill of Rights (CA Penal Code 680). CA DOJ has been able to meet this goal by implementing the RADs (Rapid DNA) Program where a subset evidence from the Sexual Assault kit is sent directly to the laboratory for analysis in 39 of 46 counties. In the remaining seven CA DOJ serviced counties where there is not a RADs program, agencies are submitting the entire kit to the laboratory. The RADs program and the Manhattan District Attorney's Office's grant are preventing future backlogs of sexual assault kit evidence."

## CONTRA COSTA DISTRICT ATTORNEY'S OFFICE

<b>Number of backlogged kits sent for DNA testing:</b>	<b>1,246</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>182</b>
<b>Number of CODIS hits:</b>	<b>182</b>

**Impact:** "The Manhattan District Attorney's Office's grant allowed for the testing of 1200+ backlogged (going as far back as 1978-79) sexual assault kits in Contra Costa County. Twenty-four of twenty-six law enforcement agencies participated, and compliance has been met 100%.

Quarterly Chief's meetings were held to discuss the testing process, the outcomes, and the goals and plans for future kits. Staff of the Contra Costa County District Attorney's Office have also led agency trainings

each quarter to review the CHOP updating requirements as well as to discuss case updates. A policy for notifying victims of HIT cases was put into place and the agencies were notified of the necessity to notify the victims of a CODIS Hit. When that notification occurs will depend on case circumstances and the investigative process.

The Manhattan District Attorney's Office's SAK Backlog Elimination project assisted with our agency implementing new procedural processes that have been put in place in conjunction with the new CA law, PC680.1. All agencies have been trained and made aware of KIT submission requirements within 120 days of collection. Per state law, if an agency chooses not to test a kit, they must substantiate reasons for their decision. Going forward, the collaboration between the Office of the District Attorney and our Law Enforcement partners will assist in preventing any future backlogs."

## RIVERSIDE POLICE DEPARTMENT

<b>Number of backlogged kits sent for DNA testing:</b>	<b>458</b>	<b>Number of arrests:</b>	<b>8</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>29</b>	<b>Number of prosecutions commenced:</b>	<b>1</b>
<b>Number of CODIS hits:</b>	<b>29</b>	<b>Number of convictions:</b>	Jury trial date pending

**Impact:** "The Manhattan District Attorney's Grant has been an invaluable tool used by our department which has allowed us to give some victims closure. One of the DNA hits resulted in an arrest of a suspect who raped a teenage girl while she slept on the couch in her home in 1996. The teenager went on after being victimized to become a successful defense lawyer and a Magistrate of a court. The same suspect from the 1996 home invasion rape of the teenager raped an adult female in 1992. Although we could not charge the suspect for the 1992 crime, the 1992 crime victim was used as corroboration for the 1996 case. The victim from 1992 shared with us how she was relieved the suspect was apprehended. Since the day she was victimized she had not had a full night's rest until she was notified the suspect was arrested. Since the grant program, our SART kit submission has been consistent."



## FLORIDA

### FLORIDA DEPARTMENT OF LAW ENFORCEMENT

<b>Number of backlogged kits sent for DNA testing:</b>	<b>1,748</b>	<b>Number of arrests:</b>	<b>15</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>785</b>	<b>Number of prosecutions commenced:</b>	<b>15</b>
<b>Number of CODIS hits:</b>	<b>409</b>	<b>Number of convictions:</b>	<b>1</b>

**Impact:** "The year the program began, legislative changes occurred in Florida requiring the submission of sexual assault kits from all reporting victims. Florida also faced the testing of thousands of kits. This program assisted in the completion of the analysis of the untested kits. It also aided in the collaboration between the state attorney's office, law enforcement, advocates, and the crime laboratory in Northeast Florida."

## MIAMI-DADE POLICE DEPARTMENT

<b>Number of backlogged kits sent for DNA testing:</b>	<b>3,100</b>	<b>Number of arrests:</b>	<b>2</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>1,036</b>	<b>Number of prosecutions commenced:</b>	<b>0</b>
<b>Number of CODIS hits:</b>	<b>505</b>	<b>Number of convictions:</b>	<b>0</b>

**Impact:** "Prior to this grant award, the Miami-Dade Police Department (MDPD) Forensic Services Bureau (FSB) had implemented a Test All approach in 2014 to work all sexual battery cases for all submitting agencies with the exception of cases where the victim did not report their assault to law enforcement and cases where evidence existed that no crime was committed.

The Manhattan District Attorney's Office's grant funding allowed the MDPD FSB to screen all cases prior to 2014 and analyze any potential biological material to develop DNA profiles for entry into the Combined DNA Index System (CODIS). The FSB screened 3,100 cases for potential biological material; ultimately, 1,036 DNA profiles were entered into CODIS, and 505 hits were made. Pursuant initially to this grant award in October, 2015, as well as changes to Florida state law in July, 2016, all submitting agencies within Miami-Dade County now submit all qualifying sexual assault cases to the FSB for analysis. The number of previously untested sexual assault cases has effectively been reduced to zero."

## TALLAHASSEE POLICE DEPARTMENT

<b>Number of backlogged kits sent for DNA testing:</b>	<b>184</b>	<b>Number of arrests:</b>	<b>1</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>59</b>	<b>Number of prosecutions commenced:</b>	<b>1</b>
<b>Number of CODIS hits:</b>	<b>29</b>	<b>Number of convictions:</b>	Case is still open

**Impact:** "Prior to applying for the Manhattan District Attorney's Grant, the Tallahassee Police Department was already working to improve policy for a more victim centered approach to sexual battery investigations. Prior policy did not require all kits to be sent for testing based on a number of different factors. This was corrected in policy, and all kits are now sent for testing.

While applying for the grant, there was coordination and meetings with local stakeholders (University Victim Advocates, Child Advocacy Center, Rape Crisis Centers, etc.). Upon receiving the grant, it required a more in depth look at old cases and we were able to have untested kits completed in a much timely manner. All previous untested kits have been tested and positive follow up with victims has been ongoing."



## GEORGIA

### GEORGIA CRIMINAL JUSTICE COORDINATING COUNCIL

<b>Number of backlogged kits sent for DNA testing:</b>	<b>3,462</b>	<b>Number of arrests:</b>	<b>4</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>951</b>	<b>Number of prosecutions commenced:</b>	<b>4</b>
<b>Number of CODIS hits:</b>	<b>391</b>	<b>Number of convictions:</b>	<b>0</b>

**Impact:** “The Georgia Criminal Justice Coordinating Council is a proud partner of the Manhattan District Attorney’s Office on the Sexual Assault Kit (SAK) Backlog Elimination Grant Program. As a grant recipient, Georgia used the funding provided to eliminate the SAK backlog following the passage of Georgia Senate Bill 304, which mandated that all SAKs in storage be submitted to the Georgia Bureau of Investigation Department of Forensic Sciences Crime Lab.

In addition to the testing provided by the Manhattan District Attorney’s Office, the grant also provided educational opportunities through the DA’s partnership with the Sexual Assault Kit Initiative (SAKI). Through this partnership, Georgia’s project manager received specialized training resulting in policy development, state work groups, and best practices in victim notification. One of the resources that was developed out of this training, is a statewide victim notification website that allows victims who may have been affected by the backlog to communicate their preferences on notification and investigative updates.

Ultimately, following receipt of the Manhattan District Attorney’s Office’s grant, Georgia realized the need for additional resources, and through a SAKI grant established a statewide initiative that funds a cold case task force providing technical assistance and guidance for jurisdictions statewide reopening cold cases. The support that the project received from the Manhattan District Attorney’s Office personnel and grant managers was extremely instrumental in the development of these valuable resources. Georgia feels confident that the resources and partnerships developed through the administration of the Manhattan District Attorney’s Office’s grant will make a lasting impact on sexual assault victims in the state for years to come, and for that we are thankful.”



## KENTUCKY

### KENTUCKY STATE POLICE

<b>Number of backlogged kits sent for DNA testing:</b>	<b>3,173</b>	<b>Number of arrests:</b>	<b>4</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>1,229</b>	<b>(more pending)</b>	
<b>Number of CODIS hits:</b>	<b>408</b>	<b>Number of prosecutions commenced:</b>	<b>3</b>
		<b>(more pending)</b>	
		<b>Number of convictions:</b>	<b>1</b>

**Impact:** “The funding provided by the Manhattan District Attorney’s Office was utilized by Kentucky to outsource 3,173 sexual assault evidence kits that had been sitting on law enforcement shelves unanalyzed for a variety of reasons. By outsourcing those kits to a vendor laboratory, the Kentucky State Police Laboratory was able to focus on analyzing the other DNA cases submitted to the laboratory for analysis in record numbers. The generous funding brought together Kentucky legislative, judiciary, law enforcement, advocates, prosecutor, and laboratory representatives to the same table and paved a way for the victims of the future to achieve justice. It helped us to think outside of the box and start the journey toward the submission and timely testing of all kits. The testing of the kits resulted in the discovery of several serial

rapists to whom we hope to put names to as investigations continue. To date, as a result of this round table, legislation has passed that required an audit by all law enforcement agencies in the state, protocols that require submission of all reported kits, and this year we expect a bill to pass requiring kit tracking whereby a victim can check the status of her kit. The Manhattan District Attorney's Office's funds played a significant role in all of this by allowing 3,173 kits to be analyzed with over 1,000 profiles entered into CODIS."



## MICHIGAN

### MICHIGAN STATE POLICE

<b>Number of backlogged kits sent for DNA testing:</b>	<b>3,440</b>	<b>Number of arrests:</b>	<b>12</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>1,217</b>	<b>Number of prosecutions commenced:</b>	<b>12</b>
<b>Number of CODIS hits:</b>	<b>649</b>	<b>Number of convictions:</b>	<b>11</b>

**Impact:** "The Manhattan District Attorney's Office's SAK grant program allowed Michigan to test all previously unsubmitted kits found during the statewide inventory. The initial estimate of previously unsubmitted kits was 3,600, with a final number of 3,440. The last kits completed testing in August 2018. The Michigan State Police (MSP) and its project partners could not have completed testing of all of the previously unsubmitted kits without the Manhattan District Attorney's Office's SAK grant.

All case investigation and prosecution is being handled by local law enforcement and county prosecutors. There are currently two local investigation teams supported by funding from the Michigan Department of Attorney General and one investigation team supported by a Sexual Assault Kit Initiative (SAKI) sub-award from MSP. The MSP is in the process of setting-up additional SAKI supported local investigation teams."

## THE CITY OF FLINT POLICE DEPARTMENT

<b>Number of backlogged kits sent for DNA testing:</b>	<b>309</b>	<b>Number of arrests:</b>	<b>21</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>160</b>	<b>Number of prosecutions commenced:</b>	<b>21</b>
<b>Number of CODIS hits:</b>	<b>98</b>	<b>Number of convictions:</b>	<b>6</b>

(numerous additional cases pending in court)

**Impact:** "The Manhattan District Attorney's Office's program is very impactful in a positive way. With the funding, provided to this site allowing the testing of the untested kits (which sat in backlog), the City of Flint Criminal Sexual Conduct division was placed in a position to move forward with prosecution of undeniable offenses, once the perpetrator had been identified via DNA. The funding allowed this site to move forward in a positive way to eliminate the possibility of a backlog occurring again.

The City of Flint has since developed a protocol demanding that the incoming kits are delivered to the laboratory within 14 days to prevent future backlogs.

The enhanced collaboration amongst the Manhattan District Attorney's Office's grant, SAKI, the victim advocates, the prosecution office, other agencies etc., has been exceedingly great. Having the opportunity and resources provided to allow growth within the division and support along the way is an amazing feeling and the survivors are extremely grateful!"



## MISSOURI

### KANSAS CITY POLICE CRIME LABORATORY / BOARD OF POLICE COMMISSIONERS

<b>Number of backlogged kits sent for DNA testing:</b>	<b>527</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>156</b>
<b>Number of CODIS hits:</b>	<b>103</b>

**Impact:** “Through work done under this program our agency developed a better method to distinguish and track anonymous vs non-reported vs reported sexual assault kits. It was found that anonymous and non-reported kits were inflating perceived backlogs for our jurisdiction. Additionally, work under this program in conjunction with new legislation has prompted implementation of a new DNA workflow (Y-screening) wherein sexual assault kits with no requests for testing may now be evaluated for male DNA.”



## NORTH CAROLINA

### CHARLOTTE MECKLENBURG POLICE DEPARTMENT

<b>Number of backlogged kits sent for DNA testing:</b>	<b>885</b>	<b>Number of arrests:</b>	<b>4</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>166</b>	(6 total cases)	
<b>Number of CODIS hits:</b>	<b>165</b>	<b>Number of prosecutions commenced:</b>	<b>6</b>
		pending trial	
		<b>Number of convictions:</b>	<b>pending trial</b>

**Impact:** “In 2015, after completing a sexual assault kit (SAK) inventory, the Charlotte Mecklenburg Police Department applied for and was awarded the Manhattan District Attorney’s Office’s grant in the amount of \$557,994. This grant provided funding to test 885 unsubmitted kits.

Since being awarded the grant, CMPD changed its protocol on sexual assault evidence testing. Moving forward, the department intends to test every SAK associated with a sexual assault crime.

Recognizing both the evidentiary value and the value to victims of testing the SAKs paid for with the Manhattan District Attorney’s Office’s grant, in April of 2016, CMPD applied for and was awarded the 2016 Bureau of Justice Assistance Sexual Assault Kit Initiative (SAKI) Grant. On Tuesday, September 27, 2016 CMPD was notified that it had been awarded the 2016 SAKI grant in the amount of \$1,125,606.

Under this grant, CMPD hired a sexual assault advocate who assists victims in both historic and current cases. CMPD is also a part of a multidisciplinary sexual assault response team (SART). This team, composed of members from the CMPD Crime Lab, patrol, Sexual Assault and Domestic Violence Units along with the Mecklenburg County’s District Attorney’s Office, sexual assault nurse examiners, and Safe Alliance (Non-profit advocacy resource) is tasked with developing best practice policies and procedures to ensure there is no future backlog and ensure the community has a coordinated, victim centered response to victims of sexual assault in Mecklenburg County.”



## NORTH DAKOTA

### NORTH DAKOTA OFFICE OF THE ATTORNEY GENERAL, CRIME LABORATORY DIVISION

<b>Number of backlogged kits sent for DNA testing:</b>	<b>210</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>90</b>
<b>Number of CODIS hits:</b>	<b>42</b>

**Impact:** "This grant allowed our laboratory to reduce the backlog of untested kits to zero. We have also encouraged all law enforcement agencies in the state to submit all sexual assault kits to the laboratory for testing in an effort to prevent future backlogs. As a result, the laboratory has observed better communication efforts being made between law enforcement agencies, prosecutor's offices, and the laboratory regarding sexual assault cases."



## NEVADA

### LAS VEGAS METROPOLITAN POLICE DEPARTMENT

<b>Number of backlogged kits sent for DNA testing:</b>	<b>3,039</b>	<b>Number of arrests:</b>	<b>7</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>679</b>	<b>Number of prosecutions commenced:</b>	<b>4</b>
<b>Number of CODIS hits:</b>	<b>339</b>	<b>Number of convictions:</b>	<b>1</b>

**Impact:** "The Las Vegas Metropolitan Police Department identified 6,684 untested sexual assault kits in southern Nevada collected 1985-2014. As of December 2018, all untested sexual assault kits from southern Nevada have been outsourced for DNA testing, and 6,116 sexual assault kits have completed DNA testing (91%). The Manhattan District Attorney's Office's grant provided funds for DNA testing on 3,039 of these untested sexual assault kits (45% of all untested kits identified).

To date, the LVMPD has entered 1,278 DNA profiles into CODIS, and has had 628 hits (a 49% hit rate). Of these CODIS profiles and hits, 679 CODIS profiles were entered and 339 hits were obtained from DANY cases (53% of all CODIS profiles entered and 54% of all CODIS hits).

The remaining 568 sexual assault kits associated with this program will be completed for DNA testing by the summer of 2019. Investigations are ongoing.

Nevada has formed a Statewide Sexual Assault Kit Working Group that is overseen by the Nevada Attorney General's Office and convenes several times per year. This working group is comprised of sexual assault nurse examiners, forensic laboratory personnel, investigators from multiple law enforcement agencies in the state, and elected officials. Recent statewide successes reference sexual assault kit testing included passing legislation to mandate the submission and DNA testing of sexual assault kits to statewide forensic laboratories within a specified time, and passing legislation to create a statewide sexual assault kit tracking system.

This sexual assault DNA testing grant has been a successful program and cooperative effort between the Las Vegas Metropolitan Police Department and the Manhattan District Attorney's Office."



## OHIO

### OHIO ATTORNEY GENERAL'S BUREAU OF CRIMINAL INVESTIGATION

<b>Number of backlogged kits sent for DNA testing:</b>	<b>3,034</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>1,946</b>
<b>Number of CODIS hits:</b>	<b>97</b>

<b>Number of arrests:</b>	<b>48</b>
<b>Number of prosecutions commenced:</b>	<b>36</b>
<b>Number of convictions:</b>	<b>22</b>

**Impact:** “The Manhattan District Attorney’s Office’s Sexual Assault Kit Backlog Elimination Grant Program funding helped enhance the collaboration between the Ohio Attorney General’s Office and local law enforcement agencies to address the accumulation of untested sexual assault evidence kits, or rape kits, throughout Ohio. This program contributed to the achievement of an overall reduction in the statewide backlog of unanalyzed rape kits. Testing led to matches in the CODIS database, resulting in numerous arrests, indictments, and convictions of offenders, and closure for sexual assault survivors.”



## OREGON

### MULTNOMAH COUNTY DISTRICT ATTORNEY’S OFFICE

<b>Number of backlogged kits sent for DNA testing:</b>	<b>2,913</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>882</b>
<b>Number of CODIS hits:</b>	<b>448</b>

<b>Number of arrests:</b>	<b>6</b>
<b>Number of prosecutions commenced:</b>	<b>7</b> <small>(6 cases in Multnomah County and 1 case in Lane County)</small>
<b>Number of convictions:</b>	<b>6</b>

**Impact:** “The Manhattan District Attorney’s Grant played a crucial role in the elimination of the sexual assault kit backlog in the state of Oregon. The grant funding helped establish and guide a collaboration of system partners united in a goal of ensuring every kit was tested. Through the testing process, stakeholders have seen firsthand the significance a tested sexual assault kit has for survivors, the community, and law enforcement.”



## PENNSYLVANIA

### ALLEGHENY COUNTY OFFICE OF THE MEDICAL EXAMINER

<b>Number of backlogged kits sent for DNA testing:</b>	<b>405</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>111</b>
<b>Number of CODIS hits:</b>	<b>42</b>

**Impact:** "This program significantly aided in the processing of sexual assault kits and, subsequently, expanding our local DNA index system (LDIS), and almost doubling the number of profiles uploaded by our laboratory to NDIS for the two years that kits were outsourced. Additionally, due to the interaction with the vendor laboratory, changes were made to our DNA workflow, to allow for higher throughput processing of sexual assault kit samples. Finally, it allowed our laboratory to be in compliance with unfunded mandates resulting from changes to our Sex Assault Testing and Evidence Collection law, that we would not have otherwise managed in the same time period."

### CITY OF PHILADELPHIA POLICE DEPARTMENT

<b>Number of backlogged kits sent for DNA testing:</b>	<b>601</b>	<b>Number of arrests:</b>	<b>4</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>399</b>	<b>Number of prosecutions commenced:</b>	<b>4</b>
<b>Number of CODIS hits:</b>	<b>67</b>	<b>Number of convictions:</b>	<b>0</b>

**Impact:** "Just prior to receiving funds from the Manhattan District Attorney's Office, the City of Philadelphia completed an inventory project to identify all untested and partially tested sexual assault kits. It was determined that over 1,900 sexual assaults kits would require further testing. Utilizing funds from the Manhattan District Attorney's Office, the City of Philadelphia was able to test almost a third of that backlog (601 sexual assault kits). The testing of these kits allowed the laboratory to focus on changing protocols, so that DNA reports on all sexual assault kits could be completed within 90 days of receipt.

Additionally, the formation of the MDT opened the lines of communication between all of the stakeholders that are involved in a sexual assault investigation for the City of Philadelphia.

Overall, funds from the Manhattan District Attorney's Office aided in the elimination of the sexual assault kit backlog, while increasing communication and allowing the laboratory to develop new protocols to completed testing within 90 days."



## TENNESSEE

### CITY OF MEMPHIS DIVISION OF POLICE SERVICES

<b>Number of backlogged kits sent for DNA testing:</b>	<b>3,110</b>	<b>Number of arrests:</b>	<b>18</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>2,242</b>	<b>Number of prosecutions commenced:</b>	<b>18</b>
<b>Number of CODIS hits:</b>	<b>1,196</b>	<b>Number of convictions:</b>	All cases still pending in court

**Impact:** “Thanks to funding from the Manhattan District Attorney’s Office, our Sexual Assault Kit Taskforce successfully tested over 10,000 sexual assault kits. With the Manhattan District Attorney’s Office’s help, we were able to bridge the funding gap allowing us to spend less time on finding financial means to pay for testing and more time on the project at hand; testing sexual assault kits. The Manhattan District Attorney’s Office also negotiated better prices with testing facilities and assisted with streamlining the testing process. We are still able to benefit from the Manhattan District Attorney’s Office’s negotiated rates and process. Moving forward, the Memphis Police Department will be able to maintain our momentum of serving those who have been a victim of sexual assault.”

## TENNESSEE BUREAU OF INVESTIGATION

<b>Number of backlogged kits sent for DNA testing:</b>	<b>1,265</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>435</b>
<b>Number of CODIS hits:</b>	<b>272</b>

**Impact:** “As we near completion of this project we all need to work together to ensure that past, present, and future sexual assault kits receive the attention they require. This project has placed considerable strain on the TBI Forensic Biology and CODIS Units; however, it has been successful, and we congratulate all who have partnered to make this a success—the Manhattan District Attorney’s Office, NIJ, the City of Memphis, TBI, victim advocates and sexual assault centers, and District Attorneys and law enforcement agencies across Tennessee. The TBI is committed to ensuring backlogged SAKs are never again a concern in Tennessee. As such, we implore all law enforcement agencies in the State of Tennessee to be cognizant of the submission requirements of TCA 39-13-519 and to submit SAKs in a timely manner. By working together we can ensure that backlogged sexual assault kits are never again an issue in Tennessee and victims receive the support for testing, investigation, and prosecution they are due.”



## TEXAS

### CITY OF AUSTIN POLICE DEPARTMENT

<b>Number of backlogged kits sent for DNA testing:</b>	<b>2,450</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>6</b>
<b>Number of CODIS hits:</b>	<b>2</b>

**Impact:** "The City of Austin outsourced 2,450 SAK for DNA testing with funds from the Manhattan District Attorney's Office. While our jurisdiction is still working through the technical review and CODIS administrator activities needed to complete the project, we are confident that we are following the Manhattan District Attorney's Office's lead and affecting change. The work of the Manhattan District Attorney's Office has inspired our agency to eliminate SAK backlogs, prevent reoccurrence, and address systemic issues in partnership with the community. Working with the Manhattan District Attorney's Office and attending BJA training assisted with expanding local victim services programming and outreach, and better positioned our City for successful cross-discipline collaboration. We are so very grateful for the Manhattan District Attorney's Office's guidance and spirit of philanthropy."

## JEFFERSON COUNTY REGIONAL CRIME LABORATORY

<b>Number of backlogged kits sent for DNA testing:</b>	<b>586</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>229</b>
<b>Number of CODIS hits:</b>	<b>122</b>

**Impact:** "The Manhattan District Attorney's Office's Sexual Assault Kit Backlog Elimination Program allowed our site to analyze stored evidence from sexual assault kits submitted to the laboratory before DNA testing was routinely performed. Profiles were uploaded to the CODIS database that never could have happened without the financial assistance received from the grant. The vast majority of the cases analyzed were past their statutes of limitation but the hope is that the profiles entered into CODIS may help with future arrests and prosecution of other unsolved crimes. Working with the Manhattan District Attorney's Office's program gave laboratory representatives the opportunity to gain a better understanding of the entire process of sexual assault investigation through communication with different law enforcement officials, district attorneys, and victim's services. The impact of the Manhattan District Attorney's Office's program and other grant programs aimed at reducing sexual assault kit backlogs and providing more transparency to the analysis and investigation process is a major contributor to legislative changes in our state and many others across the country. These changes will not only serve the general public by helping solve crimes and convict offenders, but will create a more open and just climate for survivors of sexual assault."

## TRAVIS COUNTY SHERIFF'S OFFICE

<b>Number of backlogged kits sent for DNA testing:</b>	<b>83</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>34</b>
<b>Number of CODIS hits:</b>	<b>13</b>

**Impact:** "The Manhattan District Attorney's Office's grant provided an opportunity to eliminate our agency backlog of SAKs, and provided an impetus for defining a victim notification protocol. We increased available information and promoted collaboration among stakeholders by hosting local viewings of the SAKI webinars. Although our numbers were few when compared to many of the agencies around the country, and our CODIS hit cases were outside the statute of limitations, this grant did allow us to test all of our older, previously untested kits and now TCSO has set procedures in place to ensure that all new kits are submitted to the State lab for testing within 30 days of collection."

## UTAH UTAH BUREAU OF FORENSIC SERVICES

<b>Number of backlogged kits sent for DNA testing:</b>	<b>1,977</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>635</b>
<b>Number of CODIS hits:</b>	<b>255</b>

**Impact:** "The Manhattan District Attorney's Office's SAK Backlog Elimination Grant Program has greatly contributed to the processing of untested sexual assault kits in the State of Utah. 1,977 cases have been tested with funds from this grant. The overall success of this project has not fully been discovered as many of the cases are still working their way through investigation, victim notifications, and prosecution. The Utah Bureau of Forensic Services (UBFS) has seen a portion of the success that processing these cases has revealed. UBFS has seen 88 offender hits and 22 forensic hits, which has helped identify or provide an investigative lead for cases that would not have been processed without the help of the Manhattan District Attorney's Office. A joint effort between the Sexual Assault Kit Initiative and the Manhattan District Attorney's Office's grant has provided collaboration between law enforcement, the crime lab, victim advocates, and prosecutors to have a better understanding of the entire process when dealing with a sexual assault case. Collaboration among all those listed has provided extremely useful resources that agencies throughout Utah are utilizing to investigate and prosecute these cases. Law Enforcement agencies are working closely with the Crime Lab to have sexual assault kits tested and eligible profiles entered into CODIS."



## VIRGINIA

### OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA

<b>Number of backlogged kits sent for DNA testing:</b>	<b>1,797</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>559</b>
<b>Number of CODIS hits:</b>	<b>229</b>

**Impact:** “In 2014, Virginia initiated a statewide inventory of sexual assault kits (referred to as Physical Evidence Recovery Kits, or PERKs, in Virginia) that had not previously been submitted for testing. The Manhattan District Attorney’s Office’s funds allowed the Office of Virginia Attorney General Mark Herring, in partnership with the Virginia Department of Forensic Science, to initiate the testing of those kits identified in that 2014 inventory. A statewide PERK Workgroup had also convened around the backlog kit issue, leading to changes to Virginia law that went into effect in 2016 and brought structure and consistency to the testing and storage of sexual assault kits, including a requirement that kits be submitted to the Department of Forensic Science within 60 days of collection. These legislative changes ensured that moving forward, Virginia will not have a kit backlog.

Under the Manhattan District Attorney’s Office’s grant, the Office of the Attorney General worked with law enforcement agencies across the Commonwealth to facilitate the testing of sexual assault kits and provide ongoing technical assistance as CODIS hits resulted. Project staff coordinated and facilitated training to law enforcement, prosecutors, advocates, and others to promote and encourage the use of multidisciplinary, trauma-informed, and victim-centered practices. Though grant reporting focused on cases resulting in CODIS hits, multidisciplinary review of all inventoried cases was recommended. Investigators and prosecutors were encouraged to re-examine cold cases utilizing current knowledge and techniques for trauma-informed, offender-focused investigations that could potentially overcome barriers that may have been present when cases were initially reported and investigated. This project has encouraged local sexual assault response teams (SARTs) to examine their protocols for case review in addition to strengthening sexual assault investigations and prosecutions across the state with an emphasis on trauma-informed best practices. Additionally, this project has provided the opportunity to further populate the DNA database to help solve both current and future crimes in Virginia and beyond.”



## WISCONSIN

### WISCONSIN DEPARTMENT OF JUSTICE

<b>Number of backlogged kits sent for DNA testing:</b>	<b>3,381</b>	<b>Number of arrests:</b>	<b>4</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>803</b>	<b>Number of prosecutions commenced:</b>	<b>4</b>
<b>Number of CODIS hits:</b>	<b>466</b>	<b>Number of convictions:</b>	<b>0</b>

**Impact:** “As a result of the Manhattan District Attorney’s Office’s project, Wisconsin has tested 3,381 (82% of total) previously unsubmitted sexual assault kits that were designated for testing. With testing and technical reviews complete, DOJ’s SAKI Team can now offer local jurisdictions assistance with investigations and prosecutions as well as connecting them with local resources for victim notification. In addition, examining the reasons why kits weren’t submitted for testing when they were collected has offered insight into an increased need for training on victimization and trauma-informed investigations. Finally, DOJ is collaborating with a statewide, multidisciplinary team of subject matter experts to recommend legislation that will codify best practices, including requirements for an annual inventory, submission guidelines, evidence retention policies to guide kit preservation and destruction, and development of a kit tracking system.”



## WEST VIRGINIA

### WEST VIRGINIA STATE POLICE FORENSIC LABORATORY

<b>Number of backlogged kits sent for DNA testing:</b>	<b>2,400</b>
<b>Number of DNA profiles entered into CODIS:</b>	<b>293</b>
<b>Number of CODIS hits:</b>	<b>106</b>

**Impact:** “This program has helped bring the topic of Sexual Assault Kit Testing to the forefront in WV. Our laboratory, in cooperation with our multi-disciplinary team including the state’s hospital association, victim advocates and various law enforcement agencies, is in the process of implementing “direct deposit” of SAKs. The goal will be for SAKs to go directly to our forensic laboratory for testing from WV hospitals. Upon completion of testing (including entry into CODIS when possible), the forensic report and the kit evidence will be sent to the investigating agency. This process will help ensure timely testing of all SAKs in WV.”

# Endnotes

- 1 For more information on CODIS, please see:  
<https://www.fbi.gov/services/laboratory/biometric-analysis/codis/codis-and-ndis-fact-sheet>
- 2 <https://www.fbi.gov/services/laboratory/biometric-analysis/codis/ndis-statistics#Tables>
- 3 <http://www.endthebacklog.org/backlog/what-rape-kit-backlog>
- 4 <http://www.endthebacklog.org/backlog/why-backlog-exists>
- 5 <https://onlinelibrary.wiley.com/doi/pdf/10.1111/lasr.12310>  
[https://www.researchgate.net/publication/288002532\\_The\\_National\\_Problem\\_of\\_Untested\\_Sexual\\_Assault\\_Kits\\_SAKit\\_Scope\\_Causes\\_and\\_Future\\_Directions\\_for\\_Research\\_Policy\\_and\\_Practice](https://www.researchgate.net/publication/288002532_The_National_Problem_of_Untested_Sexual_Assault_Kits_SAKit_Scope_Causes_and_Future_Directions_for_Research_Policy_and_Practice)
- 6 Ibid.
- 7 <https://onlinelibrary.wiley.com/doi/pdf/10.1111/lasr.12310>
- 8 <https://www.manhattanda.org/da-vance-announces-trial-conviction-joseph-giardala-1995-west-village-rape/>
- 9 Robert McFadden, DNA Clears Rape Convict After 12 Years,  
<https://www.nytimes.com/2003/05/20/nyregion/dna-clears-rape-convict-after-12-years.html>, (May 20, 2003).
- 10 <https://www.manhattanda.org/bnp-paribas-bank-pleads-guilty-pays-883-billion-penalties-illegal-transactions/>
- 11 <https://ojp.gov/newsroom/pressreleases/2018/ojp-news-10232018.pdf>
- 12 DANY-funded sites have sent 55,252 kits for testing. As of October, 2018, BJA-funded sites have sent more than 38,000 kits for testing. See: <https://ojp.gov/newsroom/pressreleases/2018/ojp-news-10232018.pdf>
- 13 <http://www.endthebacklog.org/information-survivors/victim-notification>
- 14 For more information on this case, see:  
<https://www.wmcactionnews5.com/2018/10/05/new-technology-helps-memphis-police-solve-case/>
- 15 <https://www.jacksonville.com/news/20180316/new-dna-test-leads-to-arrest-of-jacksonville-rape-suspect-9-years-after-attack>
- 16 For more information on these cases, please see:  
<https://www.news4jax.com/news/registered-sex-offender-charged-in-2006-rape-in-jacksonville>  
<https://www.news4jax.com/news/dna-tests-lead-to-new-charges-for-2-convicted-jacksonville-rapists>  
<https://www.news4jax.com/news/local/jacksonville/new-dna-tests-yield-arrest-of-serial-rape-suspect>
- 17 For more information on this case, please see: <https://www.atlantafultoncountyda.org/serial-rapist-who-assaulted-at-least-15-women-indicted-by-a-fulton-county-grand-jury/>  
<https://www.myajc.com/news/man-charged-with-multiple-rapes-after-lost-dna-evidence-tested/h1x0jdhA3OF7j0S17jYyFl/>  
<https://www.11alive.com/article/news/crime/never-tested-15-year-old-rape-kit-leads-police-to-accused-georgia-serial-rape/85-568566254>  
<http://www.cbs46.com/story/38537925/serial-rape-tracked-down-for-first-time-in-decade>  
<http://www.fox5atlanta.com/news/prosecutors-serial-rape-attacked-at-least-15-women>
- 18 For more information on this case, see:  
<http://news3lv.com/news/local/former-lvmpd-officer-in-custody-for-murder-sexual-assault>
- 19 For more information on this case, see: <https://www.freep.com/story/news/2018/12/03/battle-creek-man-sentenced-two- rapes-nine-years-apart/2195290002/>

20 For more information on this case please see:  
[https://www.flashalertnewswire.net/images/news/2018-10/5769/119291/PR-18-125-Jihad\\_Eldeen\\_Moore\\_Jr..pdf](https://www.flashalertnewswire.net/images/news/2018-10/5769/119291/PR-18-125-Jihad_Eldeen_Moore_Jr..pdf)

21 <https://abcnews.go.com/US/suspected-serial-rapist-impersonated-family-ties-child-star/story?id=45422011>  
<https://www.wlky.com/article/man-accused-of-impersonating-child-star-charged-with-bardstown-rape/8729375>

22 [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB41](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB41)

23 [https://azgovernor.gov/sites/default/files/eo2016-02\\_sexual\\_assault\\_kits.pdf](https://azgovernor.gov/sites/default/files/eo2016-02_sexual_assault_kits.pdf)

24 [https://azgovernor.gov/sites/default/files/sexual\\_assault\\_evidence\\_collection\\_kit\\_task\\_force\\_report\\_09302016.pdf](https://azgovernor.gov/sites/default/files/sexual_assault_evidence_collection_kit_task_force_report_09302016.pdf)

25 [https://azgovernor.gov/sites/default/files/sexual\\_assault\\_evidence\\_collection\\_kit\\_task\\_force\\_report\\_09302016.pdf](https://azgovernor.gov/sites/default/files/sexual_assault_evidence_collection_kit_task_force_report_09302016.pdf)

26 <http://www.endthebacklog.org/blog/rape-kit-tracking-system-idea-law>

27 <https://olis.leg.state.or.us/liz/2018R1/Downloads/MeasureDocument/HB4049/Introduced>

28 <https://olis.leg.state.or.us/liz/2016R1/Downloads/MeasureDocument/SB1571/Enrolled>

29 <http://endnevadasbacklog.ag.nv.gov/>

30 <https://www.leg.state.nv.us/Session/79th2017/Reports/history.cfm?ID=219>

31 <http://time.com/3625414/rape-trauma-brain-memory/>

32 <https://www.ovc.gov/pubs/crimevictimsfundfs/index.html>

33 <https://www.governor.ny.gov/news/governor-cuomo-establishes-sexual-assault-survivors-bill-rights>





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